

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

SEPTEMBER 1, 2009

#### CALL TO ORDER/NOTING OF QUORUM

Vice Chairman Johnson called the meeting to order and noted the quorum and the attendance. Present were Commissioner Guthrie and Commissioner Sturtz. Superintendent Huskey, Public Information Officer Jenny Fults and Executive Secretary Dunsmore were also in attendance.

Marc Carmichael, Deb Scott, Brady Herrmann, Jim Purucker, Nicole Upano, Trevor Vance and John Barnett were present as observers.

#### DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the August 18, 2009 meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

#### HEARING JUDGE'S RECOMMENDATIONS

PAD FORMS – Commissioner Sturtz moved to approve the parties agreed disposition forms that were submitted for the September 1, 2009 meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

RR84-25809 AND RR84-25812 HWY 40 SPORTS BAR & GRILL – Hearing Judge Dunsmore stated he held an appeal hearing in the above-referenced matter. The application for a new permit was recommended to be denied by the local board because the location was too close to a church. However, the Hearing Judge noted that he received information that the church is relocating and will be breaking ground very soon. Therefore, he recommends the commission remand this application to the local board for further investigation.

Commissioner Guthrie moved to uphold the recommendation of the Hearing Judge and remand this application to the local board. Motion seconded by Commissioner Sturtz and it was unanimously approved.

#### CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Four hundred sixteen (416) renewals approved, forty-two (42) new and/or transfer permits approved, six (6) permits approved for catering, one (1) permit approved for first year escrow, two (2) permits approved for second year escrow, one (1) permit approved for third year escrow, two (2) permits approved for fourth year escrow and one (1) permit approved for fifth year escrow.

#### **RENEWAL LETTERS AND WAIVER OF FEES**

Commissioner Guthrie moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Sturtz and it was unanimously approved.

#### **APPLICATIONS FOR DISCUSSION**

RR41-20177 FINALLY FONDUE III, INC. – Commissioner Guthrie noted this is a type 210 renewal application with the local board voting three (3) to zero (0) to disapprove.

Commissioner Guthrie moved to uphold the local board and deny the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL13-26119 HOOK-SUPERX, LLC – Commissioner Guthrie noted this is a new type 208 application with the local board voting two (2) to one (1) to disapprove.

Commissioner Guthrie stated he listened to the audiotape of the local board hearing and the reasons for recommending denial of this application were competition with local businesses.

Commissioner Guthrie moved to overturn the local board's recommendation and approve the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR03-26112 RAMOS, INC., D/B/A LA POBLANITA TAQUERIA MEXICAN RESTAURANT – Commissioner Guthrie noted this is a new type 112 application with the local board voting three (3) to one (1) to approve.

Commissioner Guthrie stated the Excise officer who sits on the local board notified the Commission regarding the information given on this application that was incorrect. The officer requests the application be remanded to the local board for further investigation.

Commissioner Guthrie moved to uphold the request of the local board and remand this application to the local board for further investigation. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR13-22371 MIGUEL'S, INC. – Commissioner Guthrie noted this is a type 209 renewal application with the local board voting three (3) to zero (0) to disapprove.

Commissioner Guthrie moved to uphold the local board and deny the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR55-89152 FOXCLIFF GOLF CLUB, INC. - Commissioner Guthrie noted this is a type 211-3 permit. The permittee is requesting that this permit be converted to a type 209 permit, so they can serve the public.

Commissioner Guthrie moved to approve the request. Motion seconded by Commissioner Sturtz and it was unanimously approved.

### **INACTIVE FILES**

INACTIVE FILES – Commissioner Sturtz moved to make five (5) permits inactive. All permits are not subject to auction. Motion seconded by Commissioner Guthrie and it was unanimously approved.

### **OLD BUSINESS**

RR54-25974 ACC KARAMBAS – Commissioner Guthrie noted this matter was tabled from the last meeting due to the fact the Commission did not have ample time to review the local board information prior to the meeting. Commissioner Guthrie stated he received a request from the Excise officer who sits on the local board to remand this application to the local board for further investigation.

Commissioner Guthrie moved to remand this new application to the local board for further investigation. Motion seconded by Commissioner Sturtz and it was unanimously approved.

### **NEW BUSINESS**

EXECUTIVE SESSION MINUTES – Commissioner Guthrie moved to approve the minutes that were submitted for the August 28, 2009 Executive Session. Motion seconded by Commissioner Sturtz and it was unanimously approved.

## **POLICY DETERMINATIONS**

HOME CROFT – Commissioner Guthrie stated the Commission has determined there is one (1) dealer liquor store permit opening available in the town of Homecroft in Marion County. This opening on the quota will be placed on the 2009 Auction. The Commission also stated this opening will not be allowed to move from the town of Homecroft.

SERVER TRAINING RULE –Commissioner Guthrie moved to approve the Server Training Rule LSA Doc #09-198(F), with the following changes: (1) a provision allowing the commission to assign exclusive certified trainer numbers to all certified trainers; (2) eliminate the provision mandating training providers retain certified trainers that may conduct classes in Spanish and for the hearing impaired; (3) change the language requiring certified trainers to use materials provided by the Commission to materials approved by the commission; (4) add a requirement that applicants for server permits be required to supply a valid server certificate at the time of application; (5) eliminate the provision relating to disallowing a retailer to allow a person to act in the capacity of an alcohol server on their permit premises if that person does not hold a valid server certificate; (6) change the language requiring a trainer program to incorporate materials provided by the commission to materials approved by the commission; (7) change the language requiring a server program to incorporate materials provided by the commission to materials approved by the commission; (8) eliminate the requirement that the commission create a seal to be utilized by certified trainers. Motion seconded by Commissioner Sturtz and it was unanimously approved.

## **ANNOUNCEMENTS**

No Announcements.

## **ADJOURNMENT**

Commissioner Sturtz moved to adjourn the meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

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P. TOM SNOW, CHAIRMAN

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DAVID JOHNSON, VICE CHAIR

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DALE STURTZ, COMMISSIONER

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FRANK GUTHRIE, COMMISSIONER